

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 ROGER RANDOLPH,

Case No.: 3:17-cv-00506-MMD-WGC

4 Plaintiff

Order

5 v.

Re: ECF No. 42

6 RENE BAKER, et. al.,

7 Defendants
8

9 Before the court is Defendants' motion for leave to file under seal the unredacted version
10 of Exhibit B filed in support of their motion for summary judgment. (ECF No. 42.)

11 "Historically, courts have recognized a general right to inspect and copy public records and
12 documents, including judicial records and documents." *Kamakana v. City and County of Honolulu*,
13 447 F.3d 1172, 1178 (9th Cir. 2006) (internal quotation marks and citation omitted). "Throughout
14 our history, the open courtroom has been a fundamental feature of the American judicial system.
15 Basic principles have emerged to guide judicial discretion respecting public access to judicial
16 proceedings. These principles apply as well to the determination of whether to permit access to
17 information contained in court documents because court records often provide important,
18 sometimes the only, bases or explanations for a court's decision." *Oliner v. Kontrabecki*, 745 F.3d
19 1024, 1025 (9th Cir. 2014) (quoting *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165,
20 1177 (6th Cir. 1983)).

21 Documents that have been traditionally kept secret, including grand jury transcripts and
22 warrant materials in a pre-indictment investigation, come within an exception to the general right
23 of public access. *See Kamakana*, 447 F.3d at 1178. Otherwise, "a strong presumption in favor of

1 access is the starting point." *Id.* (internal quotation marks and citation omitted). "The presumption
2 of access is 'based on the need for federal courts, although independent—indeed, particularly
3 because they are independent—to have a measure of accountability and for the public to have
4 confidence in the administration of justice.'" *Center for Auto Safety v. Chrysler Group, LLC*, 809
5 F.3d 1092, 1096 (9th Cir. 2016), *cert. denied*, 137 S.Ct. 38 (Oct. 3, 2016) (quoting *United States*
6 *v. Amodeo (Amodeo II)*, 71 F.3d 1044, 1048 (2nd Cir. 1995); *Valley Broad Co. v. U.S. Dist. Ct.*,
7 *D. Nev.*, 798 F.2d 1289, 1294 (9th Cir. 1986)).

8 There are two possible standards a party must address when it seeks to file a document
9 under seal: the compelling reasons standard or the good cause standard. *Center for Auto Safety*,
10 809 F.3d at 1096-97. Under the compelling reasons standard, "a court may seal records only when
11 it finds 'a compelling reason and articulate[s] the factual basis for its ruling, without relying on
12 hypothesis or conjecture.'" *Id.* (quoting *Kamakana*, 447 F.3d at 1179). The court must
13 "'conscientiously balance[] the competing interests of the public and the party who seeks to keep
14 certain judicial records secret.'" *Id.* "What constitutes a 'compelling reason' is 'best left to the sound
15 discretion of the trial court.'" *Id.* (quoting *Nixon v. Warner Comm., Inc.*, 435 U.S. 589, 599 (1978)).
16 "Examples include when a court record might be used to 'gratify private spite or promote public
17 scandal,' to circulate 'libelous' statements, or 'as sources of business information that might harm
18 a litigant's competitive standing.'" *Id.*

19 The good cause standard, on the other hand, is the exception to public access that has been
20 typically applied to "sealed materials attached to a discovery motion unrelated to the merits of the
21 case." *Id.* (citation omitted). "The 'good cause language comes from Rule 26(c)(1), which governs
22 the issuance of protective orders in the discovery process: The court may, for good cause, issue an
23

1 order to protect a party or person from annoyance, embarrassment, oppression, or undue burden
2 or expense.'" *Id.*

3 The Ninth Circuit has clarified that the key in determining which standard to apply is
4 whether the documents proposed for sealing accompany a motion that is "more than tangentially
5 related to the merits of a case." *Center for Auto Safety*, 809 F.3d at 1101. If that is the case, the
6 compelling reasons standard is applied. If not, the good cause standard is applied.

7 Here, Defendants seek to file an exhibit under seal in connection with a motion for
8 summary judgment. This is more than tangentially related to the merits of a case. Therefore, the
9 compelling reasons standard applies. They seek to file an unredacted version of a list of inmates
10 that were on a list of those authorized to attend a religious event that is the subject of Plaintiff's
11 action. They assert that it should be kept under seal to protect the privacy regarding the religious
12 affiliation and attendance at a particular religious event of inmates that are not parties to this action.
13 The court agrees that this is a compelling reason to seal the unredacted version of Exhibit B.
14 Therefore, Defendants' motion (ECF No. 42) is **GRANTED**.

15 **IT IS SO ORDERED.**

16 Dated: October 18, 2019.

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18 William G. Cobb
19 United States Magistrate Judge
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